



Republic of the Philippines
CIVIL SERVICE COMMISSION
Constitution Hills, Batasang Pambansa Complex,
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DEPARTMENT OF HEALTH
San Lazaro Compound, Rizal Avenue,
Sta. Cruz, 1003 Manila



JOINT MEMORANDUM CIRCULAR NO. 2010-01

TO : ALL HEADS OF DEPARTMENTS, BUREAUS AND AGENCIES
OF THE NATIONAL GOVERNMENT, LOCAL GOVERNMENT
UNITS, GOVERNMENT-OWNED AND/OR CONTROLLED
CORPORATIONS WITH ORIGINAL CHARTERS AND STATE
UNIVERSITIES AND COLLEGES

SUBJECT: PROTECTION OF THE BUREAUCRACY AGAINST
TOBACCO INDUSTRY INTERFERENCE

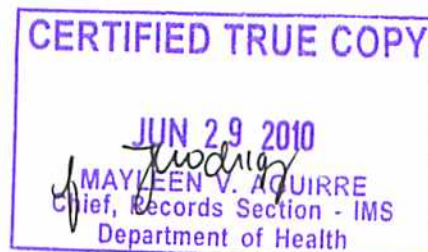
Pursuant to Article IX-B, Section 3 of the Constitution, the Civil Service Commission, as the central personnel agency of the government, is responsible for the promotion of morale, efficiency, integrity, responsiveness, and courtesy in the civil service and the institutionalization of management climate conducive to public accountability.

Pursuant to Section 2, Title IX, Chapter 1 of the Administrative Code, the Department of Health is primarily responsible for the formulation, planning, implementation, and coordination of policies and programs in the field of health, whereas Section 3 (4) thereof gives the DOH the power to administer all laws, rules and regulations in the field of health.

Pursuant to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), which was ratified by the President on September 23, 2003 and concurred in by the Senate on April 25, 2005, specifically under the title *General Obligations*, Article 5.3; the Parties, in setting and implementing their public health policies with respect to tobacco control, shall act to protect these policies from commercial and vested interests of the tobacco industry.

Pursuant to the Article 5.3 Guidelines, which was adopted by the Conference of the Parties in November 2008 to assist Parties in implementing Article 5.3, government personnel must avoid interaction with the tobacco industry and if any dealing is necessary for the latter's regulation, supervision and control, it must be transparent and accountable.

Further, in relation to the WHO FCTC and Article 5.3 Guidelines, the Civil Service Commission, pursuant to Section 12 of RA 6713, shall have the primary responsibility for the administration and enforcement of the 'Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees'.



The WHO FCTC encourages Parties to implement additional measures in consonance with those required by the treaty and its guidelines.

NOW, THEREFORE, the Civil Service Commission and the Department of Health hereby promulgate this policy on *Protection of the Bureaucracy against Tobacco Industry Interference*.

1.0 Coverage

This policy covers all government officials and employees, regardless of status, in the national or local government including government-owned and controlled corporations, with original charters, state colleges and universities.

2.0 Definition of Terms

2.1 Tobacco Industry shall refer to organizations, entities, associations, and individuals that work for or in behalf of the tobacco industry, such as, but not limited to, tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and any other individuals or organizations, including, but not limited to lawyers, scientists and lobbyists that work to further the interests of the tobacco industry.ⁱ

2.2 Tobacco Industry Interference refers to a broad array of tactics and strategies used by the tobacco industry to interfere with the setting and implementing of tobacco control measures.

3.0 Prohibitions

3.1 Unnecessary Interaction with the Tobacco Industry

Public officials and employees shall interact with the tobacco industry only when strictly necessary for the latter's effective regulation, supervision or control. Transparency in all interactions with the tobacco industry shall be observed. Any necessary interaction with the tobacco industry should be carried out in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, public officials and employees shall act to prevent or correct this perception.ⁱⁱ

3.2 Preferential Treatment to the Tobacco Industry

Public officials and employees shall serve the public interest and are prohibited from providing incentives, privileges, benefits or exemptions to the tobacco industry, except as otherwise provided by law.

3.3 Accepting Gifts, Donations and Sponsorship

Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity favor, entertainment, loan or anything of

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Chief, Records Section - IMS
Department of Health

monetary value in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office from any person or business related to the tobacco industry.

3.4 Financial Interest in the Tobacco Industry

Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction involving the tobacco industry requiring the approval of their office. In relation to this, public officials and employees shall declare any interest in the tobacco industry in their annual declaration of assets and liabilities.

3.5 Accepting Other Favors Analogous to those mentioned above, like, but not limited to the following:

Public officials and employees shall not accept or have any member of his/her family accept employment or recommend any one to any position in any private enterprise connected with the tobacco industry which has a regular or pending official transaction with their agency.

3.6 Conflict of Interest with the Tobacco Industry

Public officials or employees, regardless of status, shall avoid conflicts of interest with the tobacco industry at all times. When a conflict of interest arises, he/she shall resign from his position in the tobacco industry within thirty (30) days from his/her assumption of office and/or divest himself/herself of his/her shareholdings or interest within sixty (60) days from assumption.

3.7 Engaging in an Occupational Activity within the Tobacco Industry

Public officials and employees of agencies that have a role in setting and implementing public health policies with respect to tobacco control, shall inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving the service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

4.0 Responsibilities of the Head of Agency

The head of agency shall be responsible for the following:

- 4.1 Informing officials and employees of this policy against tobacco industry interference, and;
- 4.2 Amending their respective Codes of Conduct by incorporating the rules provided for in Annex A of this Joint Memorandum Circular.

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5.0 Information Dissemination Program

- 5.1 Agencies are enjoined to disseminate information about the addictive and harmful nature of tobacco products, tobacco industry interference with tobacco control policies, and the true purpose and scope of activities described as "socially responsible".
- 5.2 They shall give information about any type of agreement with the tobacco industry or any information that would facilitate the enforcement of policy against tobacco industry interference. Information shall include reports on any interaction with the tobacco industry, any preferential treatment given to the tobacco industry and any offer of donation to the public official or employee by the tobacco industry. To encourage transparency and accountability, the agency shall make sure that copies of these documents will be accessible to the public.

6.0 Implementation of the Program

- 6.1 **Submission of Annual Reports.** Agencies shall include in its Annual Report their compliance with this Joint Memorandum Circular.
- 6.2 **Funding & Technical Assistance.** The Department of Health shall provide a start-up fund and technical assistance to assist the Civil Service Commission in its capacity-building and advocacy programs for the different agencies of the government. Each agency is enjoined to allocate resources for its own monitoring and advocacy campaign to ensure sustainability of the programs.
- 6.3 **Participation of Civil Society**
Each agency shall encourage the participation of civil society not affiliated with the tobacco industry in achieving the objective of this Joint Memorandum Circular.

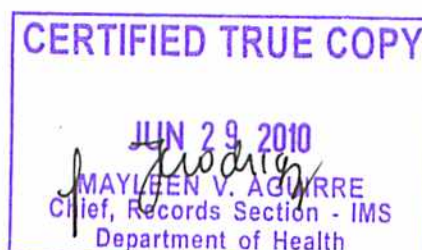
Any violation of this Circular shall be considered a ground for administrative disciplinary action pursuant to Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292, without prejudice to the filing of criminal as well as civil actions under existing laws, rules and regulations.

This Circular shall amend all issuances inconsistent herewith.

This Circular shall take effect fifteen (15) days after publication in a newspaper of general circulation.


FRANCISCO T. DUQUE III, MD, MSc.
Chairman
Civil Service Commission


ESPERANZA I. CABRAL, MD
Secretary
Department of Health



ANNEX A

**Rules which shall be included in the Amendment
of the Code of Conduct of Each Agency**

- (i) Public officials and employees shall limit interactions with the tobacco industry to those strictly necessary for its regulation and to ensure the transparency of those that occur.
- (ii) In the event that a meeting is strictly necessary, officials and employees shall abide by the following rules:
 - 1. Set the meeting agenda.ⁱⁱⁱ
 - 2. Ask the industry about what they want to discuss— in writing – then decide whether to agree with the meeting or not. Stick to the agenda and make the meeting brief.^{iv}
 - 3. Clarify the goal and structure of the meeting.^v
 - 4. Before the meeting, it must be made clear that such interaction does not imply partnership, dialogue or collaboration and indicate in writing to the tobacco industry that they may not mischaracterize the nature of the meeting.^{vi}
 - 5. Hold the meeting at the premises of the department/institution/agency/local government.^{vii} Ensure that any photograph taken of this meeting is strictly for documentation purposes only and not for the public relations activities of the tobacco industry.
 - 6. Predetermine the meeting participants by asking for the names and positions of those who will attend the meeting.^{viii}
 - 7. Moderate the meeting. A lawyer must be present and must closely advise the official/employee/representative during the meeting.^{ix}
 - 8. Write the official minutes.^x A voice recording of the meeting may be made to assist the staff in preparing the transcript of the meeting. Transcript of the meeting must be filed for record purposes and be made available to the public upon request.
 - 9. Maintain the right to terminate the meeting at any point.^{xi}
 - 10. Distribute information on the meetings as appropriate. Publicly correct any misinformation regarding the meeting.^{xii}
 - 11. Decide on follow up questions that must be answered after the meeting.
 - 12. All non-mediated exchanges (in person, phone or email) between officials, employees and representatives of the agency should be avoided.

- (iii) Public officials and employees shall declare any interest in the tobacco industry. They shall resign from his/her position in the tobacco industry within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.^{xiii}

For the purpose of this rule, interest in the tobacco industry means personal, financial or other interest, including, but not limited to:^{xiv xv}

1. having an existing ownership or investment in the tobacco industry;
2. being a member of the Board of Directors, an officer of the corporation or a partner in a partnership in the tobacco industry;
3. receiving any contribution from the tobacco industry.^{xvi}

- (iv) Public officials and employees shall not demand or receive any contribution from the tobacco industry for themselves, their families, relatives, friends, or any other persons or organizations. Contributions shall include, but are not limited to, payments, gifts and services, monetary or in-kind, research funding, financial aid, policy drafts and legal advice.
- (v) Public officials and employees shall avoid the creation of any perception of real or potential partnership or cooperation with the tobacco industry, and shall publicly correct any perception of partnership that may have been created.
- (vi) Public officials and employees of agencies which have a role in setting and implementing public health policies with respect to tobacco control, shall inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

¹ The Guidelines for the Implementation of Article 5.3¹ were adopted by the Conference of Parties last November 2008. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

Paragraph 11. Guidelines for the implementation of Article 5.3 of the WHO FCTC

The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

¹¹ Paragraph 20 Guidelines for Implementation of Article 5.3 of the WHO FCTC

In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

¹² Judith Mac Kay and Mary Assunta, Ethical Guidelines for Meeting with the Tobacco Industry.

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Rep. Act. 6713, Sec. 9

"Divestment. - A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption."

²³ Rep. Act 6713, Sec. 7 (b)

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

²⁴ Rep. Act 6713, Sec. 3 (i):

"(i) "Conflict of interest" arises when a public official or employee is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty."

²⁵ Recommendation 4.10, Guidelines implementing Article 5.3 of the FCTC

Parties should not allow any official or employee of government or of any semi/quasi governmental body to accept payments, gifts or services, monetary or in-kind, from the tobacco industry.